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7590	03/07/2006		EXAMINER	MORGAN, ROBERT W
Patrick S. Yoder Suite 330 7915 FM 1960 West Houston, TX 77070			ART UNIT	PAPER NUMBER
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**GROUP 3600**

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/747,661

Filing Date: December 22, 2000

Appellant(s): KELLEY ET AL.

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Patrick S. Yoder  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 10/17/05 appealing from the Office action mailed 4/26/05.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

5,748,907	CRANE	5-1998
6,604,084	POWER et al.	8-2003
6,260,021	WONG et al.	7-2001

6,314,565 KENNER et al.

11-2001

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

*Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 7-13, 15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Number 5,748,907 to Crane in view of US Patent Number 6,604,084 to Powers, for the substantially the same reasons give in the previous Office Action (dated 10/6/04) further in view of US Patent Number 6,260,021 to Wong et al. Further reasons appear below.

(A) Claims 2-4, 7-13, 15 and 18 have not been amended, and are rejected for the same reasons given in the previous Office Action (dated 10/6/04), and incorporated herein. Further reasons appear hereinbelow.

(B) Claim 1 has been amended to now recite "...plurality of medical system modalities, the client data comprising operational data relating to a medical system employed at a medical facility, the medical system comprising a medical diagnostic system".

As per this limitation, Crane and Powers teach electronically directing client data transmitted from a remote interface to a analysis system via a network, wherein the analysis system is configured to evaluate a plurality of medical resources associated with at least one of a plurality of modalities, the client data comprising operation data relating to a medical system

employed at a medical facility and analyzing the data with an analysis system (Master Processor) (101) (see: Crane: Figure 1, Col. 3, Ln. 59-Col.4, Ln. 6; Col. 6, Ln. 56-Col. 7, Ln. 3; Col. 7, Ln. 50-59; Col. 8, Ln. 51-67). Crane and Powers teach analyzing data for productivity and generating reports (see Power: Col. 3, Ln. 42-Col. 4, Ln. 25).

Crane and Powers fail to explicitly teach client data from medical system modalities comprising a medical diagnostic system.

Wong et al. teaches a computer based medical image distribution system including picture archiving and communication (PAC) such as X-ray imaging, computed X-ray tomography, ultrasound imaging, and so forth (see: column 1, lines 21-28). Wong et al. also teaches an object request broker (ORB) (52, Fig. 2) component, which is present on different computers and is responsible for transparently managing, locating, and communicating between client and server objects (see: column 6, lines 19-22). In addition, the ORB is responsible for object management, including, for example, object activation and termination, object persistence, and so forth (see: column 9, lines 34-55). The Examiner the communication between the client and server objects to including client data from the different PAC system.

One of ordinary skill in the art at the time the invention was made would have found it obvious to include PAC system as taught by Wong et al. with the system taught by Crane and Powers with the motivation of enabling uniform access to and ready distribution of medical images and associated records in electronic form via a network (see: Wong et al.: column 1, lines 6-11).

4. Claims 19-21, 24-26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Number 5,748,907 to Crane in view of US Patent Number 6,604,084 to Powers,

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for the substantially the same reasons give in the previous Office Action (dated 10/6/04) further in view of US Patent Number 6,260,021 to Wong et al. Further reasons appear below.

(A) Claim 20 have not been amended, and are rejected for the same reasons given in the previous Office Action (dated 10/6/04), and incorporated herein. Further reasons appear hereinbelow.

(B) Claim 19 has been amended to now recite “...a medical resources comprising a medical diagnostic system” and “...procedure data associated with the medical diagnostic system, ...”.

As per this limitation, Crane and Powers teach a remote interface configured for exchanging information an analysis system (Master Processor-101) via a network, the remote interface having a means for transmitting client data comprising medical procedure data associated with a medical system (see: Crane: Figure 1, Col. 3, Ln. 59-Col.4, Ln. 6; Col. 6, Ln. 56-Col. 7, Ln. 3; Col. 7, Ln. 50-59; Col. 8, Ln. 51-67). In addition, Crane and Powers teach which teaches analyzing data for productivity and generating reports (see: Powers: Col. 3, Ln. 42-Col. 4, Ln. 25).

Crane and Powers fail to teach a medical resources comprising a medical diagnostic system” and “...procedure data associated with the medical diagnostic system, ...”.

Wong et al. teaches a computer based medical image distribution system including picture archiving and communication (PAC) such as X-ray imaging, computed X-ray tomography, ultrasound imaging, and so forth (see: column 1, lines 21-28). Wong et al. also teaches an object request broker (ORB) (52, Fig. 2) component, which is present on different computers and is responsible for transparently managing, locating, and communicating between client and server objects (see: column 6, lines 19-22). In addition, the ORB is responsible for

object management, including, for example, object activation and termination, object persistence, and so forth (see: column 9, lines 34-55).

The obviousness of combining teachings of Wong et al. with the system of Crane and Powers are discussed in claim 1, and incorporated herein.

(C) Claims 21, 24-26 and 28 have been amended to now recite "...medical resource database having operating statistics for the medical diagnostic system..."

As per this limitation, Crane and Powers teach the step of receiving data from a plurality of medical systems comprising multiple medical imaging (testing) systems (see: Crane: Figure 1). Crane and Powers teach the step of selecting at least one medical system (see: Crane: Figure 4, Col. 8, Ln. 15-25). Crane and Powers also teach comprising data input means for entering the other recited types of data (see: Crane: Col. 7, Ln. 50-59, Col. 12, Ln. 27-58 and Col. 14, Ln. 27-41).

Crane and Powers fail to explicitly teach "...medical resource database having operating statistics for the medical diagnostic system..."

Wong et al. teaches a computer based medical image distribution system including picture archiving and communication (PAC) such as X-ray imaging, computed X-ray tomography, ultrasound imaging, and so forth (see: column 1, lines 21-28).

The obviousness of combining teachings of Wong et al. with the system of Crane and Powers are discussed in claim 1, and incorporated herein.

5. Claims 31-34 and 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Number 5,748,907 to Crane in view of US Patent Number 6,604,084 to Powers, for the substantially the same reasons give in the previous Office Action

(dated 10/6/04) further in view of US Patent Number 6,260,021 to Wong et al. Further reasons appear below.

(A) Claims 32 have not been amended, and are rejected for the same reasons given in the previous Office Action (dated 10/6/04), and incorporated herein. Further reasons appear hereinbelow.

(B) Claim 31 has been amended to now recite “...a medical resources comprising a medical diagnostic system” and “...procedure data associated with the medical diagnostic system, ...”.

As per this limitation, Crane and Powers teach a remote interface configured for exchanging information an analysis system (Master Processor-101) via a network, the remote interface having a means for transmitting client data comprising medical procedure data associated with a medical system (see: Crane: Figure 1, Col. 3, Ln. 59-Col.4, Ln. 6; Col. 6, Ln. 56-Col. 7, Ln. 3; Col. 7, Ln. 50-59; Col. 8, Ln. 51-67). In addition, Crane and Powers teach which teaches analyzing data for productivity and generating reports (see: Powers: Col. 3, Ln. 42-Col. 4, Ln. 25).

Crane and Powers fail to teach a medical resources comprising a medical diagnostic system” and “...procedure data associated with the medical diagnostic system, ...”.

Wong et al. teaches a computer based medical image distribution system including picture archiving and communication (PAC) such as X-ray imaging, computed X-ray tomography, ultrasound imaging, and so forth (see: column 1, lines 21-28). Wong et al. also teaches an object request broker (ORB) (52, Fig. 2) component, which is present on different computers and is responsible for transparently managing, locating, and communicating between client and server objects (see: column 6, lines 19-22). In addition, the ORB is responsible for

object management, including, for example, object activation and termination, object persistence, and so forth (see: column 9, lines 34-55).

The obviousness of combining teachings of Wong et al. with the system of Crane and Powers are discussed in claim 1, and incorporated herein.

(C) Claims 33-34 and 36-37 have been amended to now recite "...medical resource database having operating statistics for the medical diagnostic system..."

As per this limitation, Crane and Powers teach the step of receiving data from a plurality of medical systems comprising multiple medical imaging (testing) systems (see: Crane: Figure 1). Crane and Powers teach the step of selecting at least one medical system (see: Crane: Figure 4, Col. 8, Ln. 15-25). Crane and Powers also teach comprising data input means for entering the other recited types of data (see: Crane: Col. 7, Ln. 50-59, Col. 12, Ln. 27-58 and Col. 14, Ln. 27-41).

Crane and Powers fail to explicitly "...medical resource database having operating statistics for the medical diagnostic system..."

Wong et al. teaches a computer based medical image distribution system including picture archiving and communication (PAC) such as X-ray imaging, computed X-ray tomography, ultrasound imaging, and so forth (see: column 1, lines 21-28).

The obviousness of combining teachings of Wong et al. with the system of Crane and Powers are discussed in claim 1, and incorporated herein.

6. Claims 41-53 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Number 5,748,907 to Crane, US Patent Number 6,604,084 to Powers, US Patent Number 6,314,565 to Kenner, for the substantially the same reasons give in the previous Office

Action (dated 10/6/04) further in view of US Patent Number 6,260,021 to Wong et al. Further reasons appear below.

(C) Claim 41 has been amended to now recite, "...client data comprising procedure statistics associated with an imaging system" and "...productivity comparison of the imaging system and a proposed upgrade imaging system".

As per this limitation, Crane, Powers and Kenner teach the steps of electronically directing client data transmitted from a remote interface to a analysis system via a network, wherein the analysis system is configured to evaluate a plurality of medical resources associated with at least one of a plurality of modalities, the client data comprising operation data relating to a medical system employed at a medical facility and analyzing the data with an analysis system (Master Processor) (101) (see: Crane: Figure 1, Col. 3, Ln. 59-Col.4, Ln. 6; Col. 6, Ln. 56-Col. 7, Ln. 3; Col. 7, Ln. 50-59; Col. 8, Ln. 51-67). Crane, Powers and Kenner teach analyzing data for productivity and generating reports (see: Powers: Col. 3, Ln. 42-Col. 4, Ln. 25). In addition, Crane, Powers and Kenner teach the step of transmitting the productivity analysis report to the client via the network (see: Powers: Figure 1 and Col. 3, Ln. 43-Col. 4, Ln. 25). Crane, Powers and Kenner teach a procedure which allows a user to compare two or more versions of software so that the user can see the enhancements (evaluate the benefits) (enhancements are improvements in productivity) of the software (see: Kenner: Col. 4, Ln. 54-Col. 5, Ln. 7).

Crane, Powers and Kenner fail to explicitly teach the "an imaging system".

Wong et al. teaches a computer based medical image distribution system including picture archiving and communication (PAC) such as X-ray imaging, computed X-ray tomography, ultrasound imaging, and so forth (see: column 1, lines 21-28). Wong et al. also

teaches an object request broker (ORB) (52, Fig. 2) component, which is present on different computers and is responsible for transparently managing, locating, and communicating between client and server objects (see: column 6, lines 19-22). In addition, the ORB is responsible for object management, including, for example, object activation and termination, object persistence, and so forth (see: column 9, lines 34-55). The Examiner the communication between the client and server objects to including client data from the different PAC system.

One of ordinary skill in the art at the time the invention was made would have found it obvious to include PAC system as taught by Wong et al. with the system taught by Crane, Powers and Kenner with the motivation of enabling uniform access to and ready distribution of medical images and associated records in electronic form via a network (see: Wong et al.: column 1, lines 6-11).

7. Claims 5-6, 14, and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crane and Powers as applied to Claims 3-4, 13 and 1, above, respectively and in further view of Kenner, for the same reasons give in the previous Office Action (dated 10/6/04).

8. Claims 22-23 and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crane and Powers as applied to Claims 19, 21 and 19 above, respectively, and in further view of Kenner, for substantially the same reasons give in the previous Office Action (dated 10/6/04), further in view of US Patent Number 6,260,021 to Wong et al. Further reasons appear below.

(A) Claims 22-23 and 29-30 have been amended to now recite "...selecting the medical diagnostic system employed at the medical facility from a plurality of medical diagnostic system..."

As per this limitation, Crane and Powers teach the step of receiving data from a plurality of medical systems comprising multiple medical imaging (testing) systems (see: Crane: Figure 1). Crane and Powers teach the step of selecting at least one medical system (see: Crane: Figure 4, Col. 8, Ln. 15-25). Crane and Powers also teach comprising data input means for entering the other recited types of data (see: Crane: Col. 7, Ln. 50-59, Col. 12, Ln. 27-58 and Col. 14, Ln. 27-41).

Crane and Powers fail to explicitly teach “medical diagnostic system”.

Wong et al. teaches a computer based medical image distribution system including picture archiving and communication (PAC) such as X-ray imaging, computed X-ray tomography, ultrasound imaging, and so forth (see: column 1, lines 21-28).

The obviousness of combining teachings of Wong et al. with the system of Crane and Powers are discussed in claim 1, and incorporated herein.

9. Claims 35 and 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crane and Powers as applied to Claims 33 and 39 above, respectively, and in further view of Kenner, for substantially the same reasons give in the previous Office Action (dated 10/6/04), further in view of US Patent Number 6,260,021 to Wong et al. Further reasons appear below.

(A) Claims 35 and 39-40 have been amended to now recite “...medical diagnostic system...”

As per this limitation, Crane, Powers and Kenner teaches a procedure which allows a user to compare two or more versions of software (by selecting multiple software versions (systems) for productivity comparison) so that the user can see the enhancements (evaluate the benefits) (enhancements are improvements in productivity) of the software (see: Kenner: Col. 4, Ln. 54-Col. 5, Ln. 7).

Crane and Powers fail to explicitly teach “medical diagnostic system”.

Wong et al. teaches a computer based medical image distribution system including picture archiving and communication (PAC) such as X-ray imaging, computed X-ray tomography, ultrasound imaging, and so forth (see: column 1, lines 21-28).

The obviousness of combining teachings of Wong et al. with the system of Crane and Powers are discussed in claim 1, and incorporated herein.

10. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Crane in view of Powers as applied to Claim 19 above, for the same reasons give in the previous Office Action (dated 10/6/04).

#### **(10) Response to Argument**

In the Appeal Brief filed 17 October 2005, Appellant makes the following arguments:

(A) The Examiner's fails to establish a *prima facie* case of obviousness, firstly by not only showing that the combination includes all of the claimed elements, but also a convincing line of reason as to why one of ordinary skill in the art would have found the claimed invention to have been obvious in light of teachings of the reference. Secondly, when prior art references require a selected combination to render obvious a subsequent invention, there must be some reason for the combination other than hindsight gained from the invention itself. Thirdly, the pending claims must be given an interpretation that is *reasonable* and *consistent* with specification.

(B) Crane, Powers et al. and Wong et al. references fails to teach elements of claim 1, in particular, “client data comprising operational data relating to a medical system employed at a medical facility”.

(C) The image data obtained from the PAC system described in the Wong et al. reference has nothing to do with the actual operation of a medical system and cannot be analyzed to determine the productivity of the device that produces the image.

(D) The Examiner used improper hindsight reconstruction and failed to show each and every element of claim 1 or provide a logical rationale as to why one skilled in the art would be motivated to add a picture archiving system to a clerical tool that facilitates clerical aspects of operating a hospital or other medical facility.

(E) Cited reference fail to teach client data comprising medical procedure data that is even capable of being analyzed to determine productivity of a medical resource or diagnostic system as well as failing to provide a logical motivation to combine the cited reference in claim 19.

(F) The references fail to teach client data comprising “medical procedures statistics associated with the medical diagnostic system” in claim 31.

(G) Neither Wong et al. image data nor the Crane clerical data is properly identifiable as “procedure statistics” as recited in claim 41.

Examiner will address Appellant’s arguments in sequence as they appear in the brief.

Response to Argument (A):

In response to the first argument, the Examiner respectfully submits that establishing a *prima facie* case of obviousness is determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. See *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); *In re Hedges*, 783 F.2d 1038, 1039, 228 USPQ 685,686 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785,788 (Fed. Cir. 1984); and *In re*

*Rinehart*, 531 F.2d 1048, 1052, 189 USPQ 143,147 (CCPA 1976). Using this standard, the Examiner respectfully submits that he has at least satisfied the burden of presenting a *prima facie* case of obviousness, since he has presented evidence of corresponding claim elements in the prior art and has expressly articulated the combinations and the motivations for combinations that fairly suggest Appellant's claimed invention (paper dated 4/26/05).

In addition, the Examiner recognizes obviousness is not determined by what the references expressly state but by what they would reasonably suggest to one of ordinary skill in the art, as supported by decisions in *In re DeLisle* 406 Fed 1326, 160 USPQ 806; *In re Kell, Terry and Davies* 208 USPQ 871; and *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ 2d 1596, 1598 (Fed. Cir. 1988) (citing *In re Lalu*, 747 F.2d 703, 705, 223 USPQ 1257, 1258 (Fed. Cir. 1988)). Further, it was determined in *In re Lamberti et al*, 192 USPQ 278 (CCPA) that:

- (i) obviousness does not require absolute predictability;
- (ii) non-preferred embodiments of prior art must also be considered; and
- (iii) the question is not express teaching of references, but what they would suggest.

Additionally, the Examiner recognizes that references cannot be arbitrarily altered or modified and that there must be some reason why one skilled in the art would be motivated to make the proposed modifications. However, although the Examiner agrees that the motivation or suggestion to make modifications must be articulated, it is respectfully contended that there is no requirement that the motivation to make modifications must be expressly articulated within the references themselves. References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures, *In re Bozek*, 163 USPQ 545 (CCPA 1969).

As such, it is respectfully submitted that an explanation based on logic and sound scientific reasoning of one ordinarily skilled in the art at the time of the invention that support a

holding of obviousness has been adequately provided by the motivations and reasons indicated by the Examiner in the prior Office Action (paper dated 6/2/04), *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter., 4/22/93).

Response to Argument (B):

In response to the second argument, the Examiner respectfully submits that the Crane reference is relied for teaching a management system of a clinic that includes a processor which receives inputs from within the clinic through real-time sensors from test equipment and laboratory equipment (operational data) that affect the overall operations of the clinic (see: column 6, lines 56-61). The Wong et al. reference is relied for teaching a medical diagnostic system including picture archiving and communication (PAC) such as X-ray imaging, computed X-ray tomography, ultrasound imaging, and so forth (see: column 1, lines 21-28). In addition, Wong teaches, "...schematically at step 42, addition existing system can store ....related medical images or other medical information other than images ..." (see: column 7, lines 6-11). Thus, the proper combination of the applied references would be the incorporation of Wong's stored medical information such as medical diagnostic information with the operational data as taught by the system of Crane. Furthermore, it is noted that the Appellant specification does not impart a specific definition to claim language, namely "operational data". In addition, Examiner directs Appellant to page 14, lines 11-27 of the specification is replete with non-committal terms, in particular "...client 90 may enter a plurality of information in a Site/Operational Data section 150...the client 90 may continue with default data 154..." and "...preparation time 174 may be listed in minutes or in other time measurements, and may refer to the set up time required...". It is respectfully submitted that such language appears to describe an invention in terms of what the

invention may (or may not) be, rather than what it actually IS. Thus, the cited passages of specification fail to positively and definitely require the specific definition, which Appellant now argues.

Response to Argument (C):

In response to the third argument, the Examiner respectfully submits that the Crane and Power reference, and not Wong, *per se*, that was relied upon for the specific teaching a management system of a clinic that includes a processor which receives inputs from within the clinic through real-time sensors from test equipment and laboratory equipment (operational data) that affect the overall operations of the clinic (see: column 6, lines 56-61). In addition, Crane and Power teach analyzing data for productivity and generating reports (see: Power: column 3, lines 42 to column 4, lines 25). Wong was relied on for primarily teaching a medical diagnostic system including picture archiving and communication (PAC) such as X-ray imaging, computed X-ray tomography, ultrasound imaging, and so forth (see: column 1, lines 21-28). In addition, Wong teaches, "...schematically at step 42, addition existing system can store ....related medical images or other medical information other than images ..." (see: column 7, lines 6-11). Thus, the proper combination of the applied references would be the incorporation of Wong's stored medical information such as medical diagnostic information with the client data used for evaluating productivity report as taught by the system of Crane and Powers.

Response to Argument (D):

In response to the fourth argument, the Examiner respectfully submits that it must be recognized that any judgment to combine or the obviousness to combine reference(s) is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into

account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the Appellant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Furthermore, the motivation to combine the teachings of the Wong et al. with Crane and Power reference as given in section 3 of the Office Action (dated 4/26/05) is suggested from a passage in the Wong column 1, lines 6-11, "enabling uniform access to and ready distribution of medical images and associated records in electronic form via a network".

Response to Argument (E, F and G):

In response to the fifth, sixth and seventh argument, the Examiner respectfully submits that the Crane is relied on teaching a processor which receives inputs from within the clinic through real-time sensors from test equipment and laboratory equipment that affect the overall operations of the clinic (see: column 6, lines 56-61). In addition, Crane teaches that the Master processor (101, Fig. 1) receives information automatically from inputs (201-211) regarding equipment maintenance, inventories, and testing programs and new medical procedures (see: column 20, lines 48-55). Powers was relied on for primarily teaching analyzing data for productivity and generating reports (see: column 3, lines 42 to column 4, lines 25). Wong is relied on for teaching "a medical resources comprising a medical diagnostic system" and "...procedure data associated with the medical diagnostic system, ...", in particular, a computer based medical image distribution system including picture archiving and communication (PAC) such as X-ray imaging, computed X-ray tomography, ultrasound imaging, and so forth (see: column 1, lines 21-28). Wong et al. also teaches, "...schematically at step 42, addition existing system can store ....related medical images or other medical information other than images ..." (see: column 7,

lines 6-11). This clearly shows that the client data comprising new medical procedures as described by Crane combined with the medical diagnostic system as described by Wong are used in creating productivity reports as described by Power to arrive at Appellant's invention.

Furthermore, it is noted that the Appellant specification does not impart a specific definition to claim language, namely "client data". In addition, Examiner directs Appellant to page 14, lines 11-27 of the specification is replete with non-committal terms, in particular "... client 90 may enter a plurality of information in a Site/Operational Data section 150...the client 90 may continue with default data 154..." and "...client data for a site 1, a preparation time 174, a back log time 176, an operation time 178 ... preparation time 174 may be listed in minutes or in other time measurements, and may refer to the set up time required...". It is respectfully submitted that such language appears to describe an invention in terms of what the invention may (or may not) be, rather than what it actually IS. Thus, the cited passages of specification fail to positively and definitely require the specific definition, which Appellant now argues.

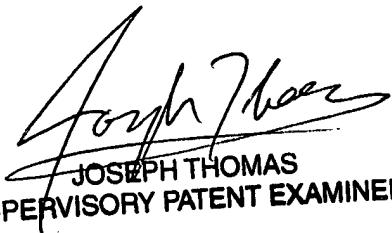
#### **(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

  
Robert Morgan  
Assistant Patent Examiner  
Tech Center 3600

  
JOSEPH THOMAS  
SUPERVISORY PATENT EXAMINER

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